



August 25, 1999

Lieutenant Brad Lancaster
Amarillo Police Department
200 E. 3rd
Amarillo, Texas 79101-1514

OR99-2398

Dear Lieutenant Lancaster:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128185.

The Amarillo Police Department (the "department") received a request for copies of numerous incident reports. You claim that six of the reports are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information. With respect to the remainder of the incident reports requested by the requestor, you did not submit copies of these reports nor did you claim any exceptions for these reports. We assume that you have already released these incident reports to the requestor.

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

* * *

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108.

You allege that incident report numbers 97-47306, 97-74364, 98-17861, and 98-20809 must be excepted from disclosure because the investigations have not been concluded. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that the requested information concerns investigations that have not been concluded. Because you have shown that the release of the requested information would interfere with the detection, investigation or prosecution of crime, we conclude that you may withhold these records under section 552.108(a)(1). *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 (1978).

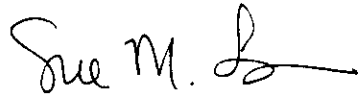
You next allege that incident report numbers 97-62312 and 97-83708 have been concluded but not adjudicated and therefore have not resulted in conviction or deferred adjudication against any person. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. The records appear to relate to cases that did not result in conviction or deferred adjudication. Because the documents at issue deal with the detection, investigation, or prosecution of crime which concluded in a final result other than a conviction or deferred adjudication, you may withhold this information under section 552.108(a)(2) of the Government Code.

We note that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Gov't Code § 552.108(c); *see* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts

presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sue M. Lee", with a stylized flourish at the end.

Sue M. Lee
Assistant Attorney General
Open Records Division

SML\nc

Ref: ID# 128185

Encl: Submitted documents

cc: Mr. Joseph V. Cavallo
c/o Allan Straw
913 East Mize Road
Demorest, Georgia 30535
(w/o enclosures)